

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE CITY OF TAMPA GENERAL
EMPLOYEES RETIREMENT FUND,
Individually and On Behalf of All Others
Similarly Situated,

Plaintiff,

v.

AMERICAN REALTY CAPITAL
PROPERTIES, INC., NICHOLAS S.
SCHORSCH, DAVID S. KAY, BRIAN
BLOCK, PETER M. BUDKO, EDWARD M.
WEIL, JR., BRIAN D. JONES, WILLIAM M.
KAHANE, EDWARD G. RENDELL,
WALTER P. LOMAX, JR., LESLIE D.
MICHELSON, SCOTT J. BOWMAN,
MERRILL LYNCH, PIERCE, FENNER &
SMITH INC., CITIGROUP GLOBAL
MARKETS INC., BARCLAYS CAPITAL
INC., J.P. MORGAN SECURITIES LLC,
CAPITAL ONE SECURITIES INC., CREDIT
SUISSE SECURITIES (USA) LLC,
DEUTSCHE BANK SECURITIES INC.,
WELLS FARGO SECURITIES, LLC,
ROBERT W. BAIRD & CO. INC.,
LADENBURG THALMANN & CO. INC.,
BMO CAPITAL MARKETS CORP., JMP
SECURITIES LLC, JANNEY
MONTGOMERY SCOTT LLC, MIZUHO
SECURITIES USA INC., PNC CAPITAL
MARKETS LLC, PIPER JAFFRAY & CO.,
AND RBS SECURITIES INC.,

Defendants.

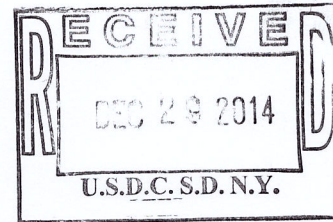
14 CV 10134

CASE NO.

CLASS ACTION

COMPLAINT FOR VIOLATION OF
THE FEDERAL SECURITIES
LAWS

DEMAND FOR JURY TRIAL



Plaintiff, the City of Tampa General Employees Retirement Fund ("Plaintiff" or the "Fund"), alleges the following based upon personal knowledge as to itself and its own acts, and upon information and belief as to all other matters based on the investigation of Plaintiff's

counsel, which included, among other things, a review of the United States Securities and Exchange Commission (“SEC”) filings by American Realty Capital Properties, Inc. (“American Realty Capital” or the “Company”), as well as regulatory filings and reports, securities analysts reports and advisories about the Company, press releases and public statements issued by the Company, and media reports about the Company. Plaintiff also believes that substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

NATURE OF THE ACTION

1. This is a federal securities class action on behalf of a class consisting of all persons or entities, other than Defendants, who purchased or otherwise acquired American Realty Capital common stock pursuant or traceable to the prospectus and registration statement (collectively, the “Registration Statement”) issued in connection with the Company’s Secondary Offering, effective on May 21, 2014, of 138 million shares of its common stock (the “Secondary Offering”), seeking to pursue remedies under the Securities Act of 1933 (“Securities Act”).

2. American Realty Capital is a real estate investment trust (“REIT”). The Company owns and acquires single-tenant, freestanding commercial real estate primarily subject to medium-term net leases with credit quality tenants. The Company principally invests in retail and office properties. As of May 21, 2014, the Company had 769,995,602 shares of common stock outstanding.

3. On May 21, 2014, in a Form 424B5, the Company filed a Registration Statement and Prospectus Supplement to the automatic shelf registration statement dated

March 13, 2013 (the “Shelf Registration”) in connection with a public offering of 138,000,000 shares of American Realty Capital at a price of \$12.00 per share.

4. The Registration Statement was not prepared in accordance with the rules and regulations governing its preparation. Indeed, the Registration Statement and other Company documents (including financial statements) that were specifically incorporated by reference and filed with the SEC, were negligently prepared and, as a result, contained untrue statements of material facts or omitted to state other facts necessary to make the statements made not misleading. For instance, the Company overstated its non-controlling interests in the calculation of adjusted funds from operations (“AFFO”) by \$12 million for the fiscal period ended March 31, 2014 (“1Q2014”) and by approximately \$10.9 million for the fiscal period ended June 30, 2014 (“2Q2014”). The AFFO is a key metric used by real estate investment trusts (such as American Realty Capital) to measure and evaluate financial performance because it measures a trust’s net income, including write-downs, depreciation, and amortization, but not including profits or losses from the sale of property. The Company also failed to disclose its inadequate internal controls and procedures over financial reporting and disclosure.

5. The Secondary Offering was a financial success for the Company and the Underwriting Defendants. Subject to the terms and conditions set forth in the underwriting agreement between the Company and the Defendant Underwriters, the Company sold 138,000,000 shares of its common stock, par value \$0.01 per share, at an “offering price” of \$12.00 per share (before underwriting discounts and commissions). The 138,000,000 shares sold included the exercise in full by the Defendant underwriters of their option to purchase up to an additional 18,000,000 shares at the public offering price of \$12.00 per share, less the